

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

MARSHALL DIVISION

CHARLES M. BEATHARD, #200787

§

VS.

§

CIVIL ACTION NO. 2:21cv067

GEORGE VAL JONES, ET AL.

§

ORDER OF DISMISSAL

Plaintiff Charles Beathard, a former inmate confined at the Harrison County Jail proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The cause of action was referred to United States Magistrate Judge Roy S. Payne for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On March 5, 2021, Judge Payne issued a deficiency order, (Dkt. #2), directing Plaintiff to submit the requisite filing fee or an application for leave to proceed *in forma pauperis*—along with a certified data sheet, trust fund statement, or equivalent from the jail. The docket reflects that this mail was returned to the Court as “undeliverable,” with a notation that Plaintiff was transferred to the Jasper County Jail, (Dkt. #3).

As a result, Judge Payne issued a second deficiency order, (Dkt. #6), and the Clerk’s Office specifically mailed it to his new address—the Jasper County Jail. Once again, that mail was returned to the Court as “undeliverable,” (Dkt. #7). On June 1, 2021, Judge Payne then issued a Report, (Dkt. #8), recommending that Plaintiff’s civil rights lawsuit be dismissed, without prejudice, for the failure to comply with an order of the Court. However, on June 14, 2021, the Report was returned in the mail once again, (Dkt. #9). To date, Plaintiff has neither submitted the requisite filing fee nor an application to proceed *in forma pauperis*—and has not communicated with the Court since March 2021.

Because objections to Judge Payne's Report have not been filed, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).


The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #8), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Plaintiff's civil rights action is **DISMISSED WITHOUT PREJUDICE**, for Plaintiff's failure to comply with an order of the Court. Finally, it is

ORDERED that any and all pending motions which may be pending in this case are hereby **DENIED** as **MOOT**.

So ORDERED and SIGNED this 25th day of June, 2021.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE